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A P P E A R A N C E S:

Los Gatos Planning Commissioners:	Jeffrey Barnett, Vice Chair Susan Burnett Adam Mayer Joseph Sordi Rob Stump
Community Development Director:	Joel Paulson
Town Attorney:	Gabrielle Whelan
Transcribed by:	Vicki L. Blandin (619) 541-3405

1 ATTORNEY WHELAN: And that would be the case if
2 it was a regular meeting, and this is a special meeting.

3 VICE CHAIR BARNETT: So, I'm confused. Are you
4 suggesting that we open the public portion of the meeting?

5 ATTORNEY WHELAN: No, I'm not, I'm just
6 recommending that there be an opportunity for Verbal
7 Communications.

8 VICE CHAIR BARNETT: I'm sorry, I'm completely
9 lost. If the public portion of the meeting is closed and no
10 more public testimony can be had on the application, and
11 we've closed the public hearing on the application, then
12 how is verbal communication to be accepted?

13 ATTORNEY WHELAN: It's just simply a portion of
14 the Brown Act that requires an opportunity for members of
15 the public to address the Commission at any meeting. If you
16 like, we could recess.

17 VICE CHAIR BARNETT: I just can't reconcile those
18 two in my mind. Sorry if I'm being dense here. We do have
19 one member of the public, but let's resolve this issue.

20 SEAN MULLIN: Through the Chair, may I suggest
21 that we take a brief recess?

22 VICE CHAIR BARNETT: Why don't we take a five-
23 minutes recess?

24 SEAN MULLIN: Thank you.

1 VICE CHAIR BARNETT: Good suggestion.

2 (INTERMISSION)

3 VICE CHAIR BARNETT: I'm going to call the
4 meeting back to order, and upon legal advice I understand
5 that Verbal Communications on items not on the agenda is
6 not permitted, and that we will allow Verbal Communications
7 on the application, and so people who wish to speak—and I
8 have a card from Lee Quintana—are welcome to come forward,
9 certainly with the understanding that we have read and
10 heard a lot, but you are welcome to do so. Thank you, Ms.
11 Quintana.
12

13 LEE QUINTANA: Again, I'm really not prepared to
14 speak. I haven't had a chance to read the letter from the
15 Applicant. I do have some thoughts. I started out writing a
16 letter to the Commission, and I approached them seven
17 different ways and none of them worked, but I do have some
18 real concerns that there are conditions in here that are
19 questionable, such as the ending hour of operations.

20 The JCC has hours of operations till 12:30, and
21 then they are given exemptions that they can use till 1:30
22 two times a month. That's a lot of late-night activity.
23 They're not in an R-1 district, but they are adjacent to
24 multiple-family housing. Does that mean that multiple-
25

1 family housing has less rights or more rights than single-
2 family housing?

3 The issue of the café, again, JCC has a café that
4 is open to the people who use the facility, not to anybody
5 else, and it can't be advertised; that's one of the things
6 that the mosque was asking for.

7 It's unclear to me, reading through the last set
8 of conditions that I read through—they may have changed
9 already—what a special event is. In most other CUPs it
10 specifically indicates that it's something that you need to
11 get a permit from the Police Department. In this one, it
12 doesn't say that. It says more than 100 people. I don't
13 know if that is consistent with any other CUP, and again,
14 the first thing in the mosque letter was the first thing
15 that I came upon, which was the limitation to just
16 religious related matters. There should be a very clear
17 definition of what the permitted uses are. I don't think
18 there is, not clear.

19 This document is hard to read. It's repetitive,
20 it's confusing, we have maximum attendance records set by
21 the Fire Department, set by this, set by that. What is
22 maximum attendance? Some CUPs have parking that is
23 insufficient for their allowed attendance. There are all
24 these inconsistencies between these.

1 I guess basically that's all that I'm going to
2 have the time to talk about. But one more thing that I do
3 want to state.

4 All the CUPs that I looked at, the only time that
5 fencing was a requirement was when new construction was
6 being done, so to force new fencing on one side of this
7 site that is largely vacant...

8 VICE CHAIR BARNETT: I'm afraid your time is up,
9 but we always appreciate your comments and your letters.

10 LEE QUINTANA: Yes, you do, sometimes.

11 VICE CHAIR BARNETT: My understanding of the
12 protocol, and Ms. Whelan can confirm, that it's not an
13 expectation of the Planning Commissioners to ask questions
14 of the speakers.

15 ATTORNEY WHELAN: That correct.

16 VICE CHAIR BARNETT: Thank you very much. I have
17 another card here from Michele S.

18 MICHELE S.: Thank you, and good evening. The one
19 topic that I wanted to discuss was the recommendation and
20 action of the Planning Commissioners to delay the adoption
21 of the resolution. This is because the original intent of
22 the modification for this Conditional Use Application was
23 specific to address and support the five daily prayers and
24 Ramadan, and that would be not prudent or responsible for
25

1 the Planning Commissioners or the Town Council to adopt a
2 resolution without fact-based, relevant data that is
3 representative of the modification being requested.

4 The current information that you have in the
5 packets that have been provided over the last almost half
6 dozen meetings is inaccurate, and it was submitted by the
7 Applicant that is misleading and irrelevant and does not
8 provide factual or accurate information about the
9 intensification of use, traffic, safety, light and noise
10 pollution. The data submitted does not represent the
11 proposed modification for the general hours or Ramadan, and
12 the Applicant's reports were done in non-seasonal
13 conditions, as well as only for daily prayer services,
14 versus the plethora of extensive types of activities listed
15 in Section B, Item 9.

17 We believe misapplying the RLUIPA strips our
18 homeowners of their property rights, turning the residents
19 into substandard citizens. Enforcing neutral restrictions
20 on noise, headlights, and the hours of operation is a
21 legitimate exercise of the municipal authority and not a
22 religious discrimination. We are here not about religion,
23 but about compatibility. Questions?

24 VICE CHAIR BARNETT: (Inaudible) questions, but
25 thank you very much for your comments. I don't have any

1 other cards. Is there anyone who wants to speak? Thank you.
2 We'll begin with Kim Ratcliff, and then go on to Jim
3 Ratcliff.

4 KIM RATCLIFF: Hi, Planning Commission. I have
5 copies of the letter that we sent today at 11:59. Does
6 everybody have those, or would anyone like one? I think you
7 all got them.

8 VICE CHAIR BARNETT: We can ask the Town Attorney
9 if that was a Desk Item.
10

11 KIM RATCLIFF: I believe it was.

12 JOCELYN SHOOPMAN: It was included in the Desk
13 Item.

14 VICE CHAIR BARNETT: Thank you.

15 KIM RATCLIFF: Basically, we wrote to you, and
16 after meeting with Ms. Whelan, she suggested that we send
17 you ideas on how to improve the conditions that would
18 improve the neighbors' lives, and I don't see that any of
19 these changes that we've suggested in the letters have been
20 included, so I just wanted to go over...

21 It says here on the proposed modifications that
22 Conditions B-10-C and all of Conditions C, D, and E
23 mitigate negative influences on our lives, and traffic
24 conditions also address the safety of the congregants of
25

1 the mosque, and I feel that I need to point out there is
2 just not clarity.

3 In Condition 24, Driveway Operations, "The
4 Applicant shall ensure the ingress and egress to
5 neighboring driveways is preserved." How? There are no
6 details about that.

7 In Condition 25, Event Parking Overflow Plan,
8 "The Applicant shall implement an overflow parking plan."
9 Again, how? There are no details.

10 A big thing to the neighbors is the language also
11 under Driveway Operations. "The Applicant is authorized to
12 remove the Right Turn Only sign at the end of the egress
13 driveway." Well, the Applicant has had permission to remove
14 that for the last two year, and we've been asking the Town
15 and the Applicant, and they haven't removed it, and that's
16 a huge factor for us, because it not only directs every
17 single car that comes out of the parking lot, every 200
18 cars, right past our house, so we take the brunt on three
19 sides: the parking lot, the side narrow exit driveway, and
20 now in the front, *and* all the cars, instead of turning left
21 onto the feeder street, they feed past our house and they
22 wind through all the streets, so that is a really big that
23 I would encourage the language to be stronger for that, and
24
25

1 also mandate a Left Turn Only sign; I think that would be
2 great.

3 Also, Condition 26, Parking Lot Expansion. When
4 the cars drive down the narrow driveway we hear bump, bump,
5 bump, and this is very unclear. "Shall be repaired on a
6 local basis." This is Condition 26, Parking Lot Expansion.
7 "Shall be repaired on a local basis so that cracks, bumps,
8 or other anomalies do not unreasonably contribute to
9 additional noise generations of passing vehicles." I just
10 feel there needs to be more clarity.

11
12 VICE CHAIR BARNETT: Understood. Thank you for
13 your comments. Now we have Jim Ratcliff, please.

14 JIM RATCLIFF: Thanks, Commissioners. The
15 Applicant, when he first asked, he had a humble ask. He
16 said, "A mosque is not a mosque unless you have five daily
17 prayers." So, he got that. And then he wanted an hour later
18 for Ramadan. He got that too. Now, he wants extra time for
19 coffee time, guest speakers, weddings, amplification, he
20 wants to stay 30 minutes more to empty the parking lot.
21 That's going to be a big challenge. 10:00pm, and now he
22 wants to go to 10:30 every day of the year. That's going to
23 be a real hardship.

24 People work from home. We need to sleep. That is
25 not going to be a great situation, and again, there is no

1 maximum on occupancy. This is not equitable for the
2 neighbors. St. Mary's's, you can only stay till 9:30.

3 I guess the thing that is frustrating is the
4 mosque has an intensification of use that is uncomparable
5 to other churches in Los Gatos. It's not a very good
6 comparison. It really needs to be compared to other mosques
7 in the Bay Area, because a lot of these other mosques are
8 not on R-1 streets in a residential neighborhood, so it's
9 not really an equitable for fair comparison when you're
10 comparing the Applicant to the other churches in Los Gatos.
11 Thank you.

12
13 VICE CHAIR BARNETT: Thank you, sir. And we have
14 Mary Hogan.

15 MARY HOGAN: Good evening, Commissioners and all.
16 Last Tuesday at 9:00pm I stood in the driveway of a home
17 across from the facility. I heard audio playing; it was
18 from a phone on speaker as an attendee walked from the
19 facility entrance, down Farley Road toward Izorah Way. He
20 crossed the street, entered a parked car, and shortly left.

21 At 10:00pm, again I'm out on the street; I have a
22 cat who I walk on a leash. Another attendee entered a car
23 parked in front of the facility on Farley Road. He made a
24 U-turn on Farley, the flash of lights washed the front of
25 the house, and departed toward Los Gatos Boulevard.

1 These are not dramatic incidents, and that is
2 precisely the point. This was not a major event, the
3 parking lot was not full, yet even under ordinary
4 conditions activity associated with late departures carries
5 into the surrounding neighborhood. In residential areas,
6 the impacts are incremental. Headlights through windows,
7 engines starting, car doors closing, conversations, phones
8 on speaker, traffic movements late into the evening. One
9 moment may seem minor. Repeated over time, they
10 fundamentally change the nighttime character of a
11 neighborhood. That is why conditions matter.

13 It is unrealistic to expect perfect compliance
14 from every visitor, every night, indefinitely. If this
15 expansion is approved, we are potentially discussing
16 activity associated with approximately 180 parking spaces
17 multiplied across evenings, weekends, and special events.
18 That creates thousands of individual moments where nearby
19 residents absorb the burden of noise, traffic, lighting,
20 and disruption.

21 This is not about opposing faiths, worship, or
22 community gathering. It is about compatibility within a
23 residential neighborhood, and recognizing that operational
24 impacts do not stop at property lines.

1 The Commission has both the authority and the
2 responsibility to mitigate these impacts through meaningful
3 conditions.

4 First, the Town's own Parking Code states that a
5 use may not be modified through increased occupancy or
6 intensity.

7 Second, any approval should include a shorter
8 compliance review period, so the Town can evaluate whether
9 mitigating measures are actually working.

10 Third, requiring reasonable investments in
11 traffic management, noise reduction, and quiet departures
12 cannot be characterized as an undue financial burden.

13 At the end of the day, this comes down to mutual
14 respect between neighbors. I ask each of you to picture
15 your own home at night, your porch, your living room, your
16 family settled in, the quiet that makes a neighborhood feel
17 like home, and consider what it means to preserve that for
18 the residents who live here every day. Good planning is not
19 about what a facility is permitted to do, it's about
20 protecting the lived experience of the surrounding
21 community.

22 VICE CHAIR BARNETT: Thank you for those
23 comments, Ms. Hogan. And now we have Courtney.
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25

1 COURTNEY BUI: Hello. We spent quite a bit of
2 time in our previous hearing to understand the intensity.
3 Commissioner Stump asked the Applicant on the expected
4 volume. The traffic data provided to us only accounted for
5 the five daily prayers and Ramadan. They were great
6 information; however, it didn't account for events,
7 weddings, rentals, plant sharing, guest speakers, all year
8 round new commercial and social activities. There is no cap
9 at that.

10
11 These activities are not part of the calculation,
12 because our CUP was written entirely based on data
13 discussed. It is not comprehensive and accurate. We simply
14 do not understand the true nature or scale of what is being
15 proposed. Like the neighbor earlier said, the ask scope has
16 changed from the beginning of five daily prayers to now
17 coffee after praying, 30 minutes to leave the parking, etc.

18 Furthermore, while our building codes clearly
19 define max occupancy for traditional seating and standing,
20 they don't account for prayer position requirements; we
21 don't know what that number really, truly is. We're
22 guessing here, leaving the true safety limits really
23 unclear. We moved from parking spot limitations now to
24 people capacity, and if people capacity is on praying, not
25 on sitting or standing, then what is that?

1 I ask the Planning Commission before moving
2 forward we need to get the numbers right. I respectfully
3 ask that we do that analysis during Ramadan to capture true
4 peak traffic, alongside a proper occupancy validation for
5 prayer spacing. Only with this accurate data can we draft a
6 safe, fair, and effective CUP. This will also give us time
7 to write the CUP in a way that is clear for all. As the
8 Applicant stated a couple of weeks ago, it's not clear to
9 him as an applicant, it's not clear to that neighbor who
10 just stood up here, it's definitely not clear to most of us
11 here. Thank you for your time and consideration.
12

13 VICE CHAIR BARNETT: Thank you, Courtney. And we
14 have Gus Who again. Please come forward.

15 GUS WHO: The Brown Act, the thing, because we
16 already had...and I was wearing a brown hat and stuff like
17 that. You know how it kind of works. You're supposed to
18 also give it a three-day notice on this kind of stuff,
19 because again, the last-minute stuff.

20 I think it's too soon after the San Diego just to
21 hear this kind of thing, just for the record. The flowers
22 are for them, just out of town thing.

23 I'd like to remind everybody, especially Farley.
24 I said this the first time. If they sell the property, and
25 you guys on the Planning Commission know this, the

1 builders, they get this, they go three, four, six stories
2 high, and everybody here that is complaining about noise
3 and stuff like that, this is going to be 24 hours a day.
4 There will be 100 cars coming in and out, lights to be on
5 all the time. The Farley residents have to realize they can
6 sell the property and everybody... We're already complaining
7 about high-rises. They're going to put a high-rise there.
8 That's a perfect... Or three or four stories, right looking
9 down on your back yards.

10
11 So, consider this... You know, another thing is
12 we're getting into like a lot of legal stuff. This would go
13 into the federal courts. I've been to three: San Jose, San
14 Francisco, and Oakland courts. It's expensive for both
15 sides, and the Town is going to be... You know, you're
16 hitting the Town too, so let's try to settle this.

17 The right lane, I mean, turning right, I think
18 they should know you can't turn right into the residential.
19 That was the biggest problem that things. I think they will
20 correct that. I don't know why they haven't taken down the
21 sign if that's true, but they should do that immediately. I
22 don't know if you guys can say, oh, make a left turn, but I
23 would even block it off and have the cross guards, because
24 it's a residential street; put cross guards on the property
25 line. Don't let them turn in front of this house, and all

1 the residents can go around, down Frank. Nobody needs to go
2 down past the things besides the six houses, and that way
3 you separate them for a little period of time, and that
4 would solve a lot of the problems. I think it can be easily
5 settled out of court, or out of this, if both sides would
6 just be a little bit more reasonable. Thank you.

7
8 VICE CHAIR BARNETT: Thank you, sir. I have a
9 card from Razi, please.

10 RAZI MOHIUDDIN: Good evening, Planning
11 Commissioners. Thank you so much.

12 I just want to focus on one quick thing here.
13 Over the last meeting, not only were there a number of
14 conditions that were added by the Planning Commission, but
15 there were two substantial changes made by the Staff and
16 the Town Attorney there.

17 One was a change in the language of what the
18 usage was to specify worship services, and the second was
19 essentially ending at 10:00pm without actually any time for
20 moving that.

21 I want to point out that both of them actually
22 had a significant violation of RLUIPA over here. We're not
23 asking for special terms, we're asking for equal terms, and
24 in order for the Planning Commission to actually move to
25 that, we have actually submitted a detailed letter so you

1 can review that in detail, but what this actually means is
2 that the Town has a responsibility in order to make sure
3 that one, it is equal terms, and two, since it is a
4 substantial burden for us, has to have a compelling reason
5 and the least restrictive means, so I just wanted to make
6 that reminder to the Commission before it finalizes the set
7 of Conditions of Approval. Thank you.

8 VICE CHAIR BARNETT: Thank you, sir. Do we have
9 anyone on Zoom?

10 DIRECTOR PAULSON: There are no hands raised on
11 Zoom.

12 VICE CHAIR BARNETT: Okay, thank you. We'll now
13 proceed to formally act on the request for approval to
14 modify Conditional Use Permit U-24-10 for the property at
15 16769 Farley Road, and I incorporate all of the terms in
16 the subject matter paragraph of the agenda.

17 Before we begin, are there any disclosures
18 regarding this matter. Commissioner Stump.

19 COMMISSIONER STUMP: Yes, I did receive a direct
20 email from a Farley Road neighbor, Mary Hogan. The email
21 was headed, "Parking Space Per Seats." I did not read the
22 email, so I did not respond to any of the email's content.
23 I responded to Ms. Hogan, stating I am unable to comment or
24 answer your questions. The response I received back, "Thank
25

1 you for your reply. I totally understand your position and
2 appreciate all your time and concern."

3 VICE CHAIR BARNETT: Thank you very much. Other
4 Commissioners? I have a disclosure. Javed Ellahie has
5 attended meetings here and has spoken. He was a law school
6 classmate of mine, and during our respective legal
7 practices we had occasion to speak. However, we have spoken
8 on no matters other than private matters unrelated in any
9 way to this proceeding, such as retirement and physical
10 health, and in no way is that going to affect my opinion
11 tonight.
12

13 Moving on, I believe we should proceed to ask
14 questions of Staff before a motion is presented, and I'll
15 look for hands. Commissioner Sordi.

16 COMMISSIONER SORDI: I was hoping Staff could
17 give us a quick summary of the items we received. I think
18 I'm pretty clear about... Well, maybe I'll just start out and
19 I'll get more detailed about my question.

20 We got the packet, and it's a clean version, and
21 also tracks changes version of the modified conditions that
22 we discussed on May 13th, so there's a clean version and a
23 redline version. It's the next one I'm a little confused
24 about. Those were Exhibits 44 and 45.
25

1 We got another memo that says that it's a revised
2 resolution, it's Exhibit 47, to provide reference to the
3 applicable Conditions of Approval, and then it goes on to
4 say, "which address the unique impacts of nighttime
5 services in a residential zone." I feel like I'm missing
6 something. Was it intended to clarify something?

7 ATTORNEY WHELAN: Yes, it was. The original
8 resolution referenced what impacts each condition was
9 intended to address, but it didn't list all of the
10 applicable Conditions of Approval, and so the second
11 version that you got lists all of the Conditions of
12 Approval that relate to that particular impact.

13 COMMISSIONER SORDI: So, we have 34 Conditions of
14 Approval, I think, in the original, right? In the packet.
15 And did that number change?

16 JOCELYN SHOOPMAN: The Conditions of Approval did
17 not change in the addendum; it was only the resolution that
18 was updated.

19 COMMISSIONER SORDI: Oh, just the resolution
20 part.

21 JOCELYN SHOOPMAN: Yes.

22 COMMISSIONER SORDI: I get it. Okay, thank you.

23 VICE CHAIR BARNETT: Other questions for Staff?
24 Commissioner Stump, please.
25

1 COMMISSIONER STUMP: In public comment either
2 today or yesterday we received an inquiry related to
3 traffic direction, and it had to do with parking, and this
4 is Condition 23, Parking Lot Monitoring. I assume that if
5 the mosque parking monitors are on the public street
6 assisting with parking in the lot or the street that they
7 need to be authorized by Parks and Public Works and/or the
8 Police Department? Or what is the definition of parking lot
9 monitor, or traffic direction? This is, again, Condition
10 23.
11

12 ATTORNEY WHELAN: There is a code section in the
13 Town Code that specifies the people directing traffic on a
14 Town street are limited to specific people, not private
15 individuals; however, private property can have traffic and
16 parking regulation by other people.

17 COMMISSIONER STUMP: So, then the understanding
18 for the Applicant is that their people are not to be in the
19 street at all, but on the sidewalk or the driveway? Because
20 I know just observing them, they were trying to be
21 conscientious and they have been out in the street and
22 trying to give people direction, so I just want to be clear
23 if that if we need to give them direction not to have
24 people in the street, or those people need to be trained
25 and approved.

1 ATTORNEY WHELAN: That rule exists in the Town
2 Code. If the Planning Commission is interested, it could be
3 referenced in the Conditions of Approval. We don't
4 typically reference Town Code sections in the Conditions of
5 Approval, but that could be done. And if I were to read
6 this Condition of Approval as it is, I would read it that
7 the monitors are to be directing people on private
8 property.

9 COMMISSIONER STUMP: Thank you.

10 VICE CHAIR BARNETT: Other questions?
11
12 Commissioner Burnett.

13 COMMISSIONER BURNETT: Thank you, I have a
14 question for Staff. One of the letters from the neighbor
15 brought up an interesting recommendation for the Los Gatos
16 Planning Staff/Town Engineer to fund a residential parking
17 permit program. Is that something that could in the future
18 be looked into, or is that something the Town would
19 consider?

20 ATTORNEY WHELAN: I believe Parks and Public
21 Works is currently working on a permit program. I would not
22 recommend that the Town pay for the establishment of the
23 program in a particular neighborhood.

24 COMMISSIONER BURNETT: Thank you.

25 VICE CHAIR BARNETT: Commissioner Stump.

1 COMMISSIONER STUMP: Just a follow-up question on
2 that, again, probably in the same memo that Commissioner
3 Burnett is referring to. There was a statement related to
4 St. Mary's. Do we have a special arrangement with St.
5 Mary's for parking in that area based on their parking
6 situation?

7 JOCELYN SHOOPMAN: Thank you for that question. I
8 am not aware of the Town having a specific program for St.
9 Mary's.

10 COMMISSIONER STUMP: I'll go and try to find the
11 reference that was in the packet from one of the residents.

12 DIRECTOR PAULSON: Through the Chair, I believe
13 that there are permit parking requirements out there, which
14 may or may not cover all of the services that St. Mary's
15 holds, but there is some form of permit parking in that
16 area.

17 COMMISSIONER STUMP: I guess further my question
18 would be was there any special consideration given by the
19 Town for that permit parking to be established in that
20 area?

21 DIRECTOR PAULSON: Not that we're aware of,
22 because that was done quite some time ago.

23 COMMISSIONER STUMP: I understand. Thank you.

1 VICE CHAIR BARNETT: I have a few, and then we'll
2 see if other Commissioners have additional ones.

3 The first question is for the Town Attorney, and
4 the question is do the changes proposed in Exhibit 47,
5 Attachment A, as shown in the redline as well, are those
6 proposed revisions a reflection of the opinion of Staff and
7 the Town Attorney that they're necessary for compliance
8 with RLUIPA?

9 ATTORNEY WHELAN: The majority of them are
10 changes that were recommended after we reviewed
11 correspondence from all parties after I don't think it was
12 the last Planning Commission meeting, but it was the April
13 22nd Planning Commission meeting, and that's why there were
14 alternative Conditions of Approval presented at the May 13th
15 meeting.

16 There is one condition that's not related to
17 RLUIPA. It's the condition that was mentioned by the
18 Applicant that says the worship services will end at a
19 prescribed time and other activities will end at a
20 different time. That was intended to address concerns that
21 the reason for the request for the CUP modification is to
22 allow for all of the required prayers, so the intent was to
23 make it clear that the expanded hours are to accommodate
24 the prayers, rather than other gatherings.
25

1 VICE CHAIR BARNETT: As I went through the
2 redline, it seemed to track exactly the changes that were
3 requested in the letter of May 20th from the mosque, and
4 that's why I thought that what we're looking at is a
5 reaction to that letter.

6 ATTORNEY WHELAN: I would say the bulk of the
7 changes are in reaction to that letter, and then the change
8 that I just described is a reaction to other input from the
9 public.

10 VICE CHAIR BARNETT: Okay, thank you for that.
11
12 Second question, should the Planning Commission limit its
13 consideration of other CUPs to those in the Town or the
14 County, or those outside the County that have been referred
15 to by a number of members of the public?

16 ATTORNEY WHELAN: With regard to RLUIPA, the
17 requirement is that the Town treat religious uses on equal
18 terms with other public assembly uses and that the Town not
19 discriminate between faiths, and so for purposes of the
20 RLUIPA analysis, the Planning Commission is looking at
21 other uses within the Town of Los Gatos. But that said,
22 input on how Conditional Use Permits are handled in other
23 jurisdictions is also factual information that the Planning
24 Commission can consider.
25

1 VICE CHAIR BARNETT: Okay, thank you for that. My
2 third question, there have been a lot of numbers floating
3 around, of course. Exhibit 42, which is the Town compliance
4 chart, shows that the mosque does not now have a seating
5 capacity in the CUP, and I looked at it and that's correct.
6 But is there an occupancy limit applicable to the mosque
7 under Town ordinances, not a policy, but an ordinance, or
8 one that's imposed by County Fire or the Fire Code?
9

10 ATTORNEY WHELAN: The Conditions of Approval
11 reference the maximum building occupancy that's been
12 established by the Fire Department, and then independent of
13 that there is a Town Code section that talks about required
14 parking for various uses, and for religious uses the Town
15 Code does provide one parking space for every four seats,
16 and so it's not exactly on point for a religious use that
17 doesn't have seating, but I do think it's reasonable to
18 interpret seats as bodies.

19 VICE CHAIR BARNETT: Okay, thank you. Those were
20 my questions. Are there any others? Commissioner Stump.

21 COMMISSIONER STUMP: This is just a follow-up. I
22 said I would take a look for where this statement about
23 parking was in some of the addendum material that came.
24 This comes from an email from Kim Ratcliff today, and this
25 is talking about conditions, and so they were "Recommending

1 developing and funding a residential parking permit program
2 for the Farley Road Neighborhood Coalition that can be
3 rolled out in phases." Skipping down the page, "The
4 recommendation of the Farley Road Neighborhood Coalition is
5 to utilize the same plan the Town of Los Gatos has on Tate
6 Avenue and Bean for St. Mary's Catholic Church," and I
7 think the response is that we did not have any special
8 program or plan for St. Mary's. Realize this was many years
9 ago that this was established, but again, I guess Mr.
10 Paulson, you've confirmed that there's no special
11 arrangement in place.

12
13 DIRECTOR PAULSON: I confirmed that we're not
14 aware of one. I think it's also a different scenario,
15 because of its proximity to downtown, so you have potential
16 for employees and others to park in those residential
17 neighborhoods, so I imaging it was not strictly a St.
18 Mary's issue.

19 COMMISSIONER STUMP: Thank you.

20 VICE CHAIR BARNETT: If there are no more
21 questions, we're required by Rosenberg's Rules of Order,
22 which are applicable to the Planning Commission under the
23 rules adopted by the Town Council, to have a motion before
24 us prior to discussion.
25

1 I'm going to exercise my authority as Chair to
2 make a motion, and I fully understand that there will be
3 discussion about it, that there may be amendments proposed,
4 or there may superseding motions, but we have to get
5 something on the table, so I'm going to do that right now.

6 My motion is to approve the application which is
7 before us in addition to the resolution in Exhibit 47, and
8 to the modified conditions in Exhibit 37, Attachment A,
9 with certain changes relating the RLUIPA findings.
10

11 First to change all references to night and day.

12 Secondly to add the following language: "The
13 conditions addressing serious vehicle and pedestrian safety
14 risks in the neighborhood, and those crafted to mitigate
15 material sound and light pollution adversely affecting the
16 lives of certain neighbors do not require significant costs
17 to the mosque, and are the least expensive means to address
18 the compelling Town's governmental interest in neighborhood
19 preservation and protection as set forth in Land-Use
20 Element with the General Plan."

21 Thirdly, these I'll relate to the resolution and
22 not the conditions. At the end of the paragraph which ends,
23 "single-family residence," add that, "traffic and
24 pedestrian safety issues affecting the larger neighborhood,
25 more particularly identified in paragraphs Roman numerals I

1 through V as follows." What we are doing there is just
2 melding in traffic and pedestrian safety issues.

3 The fourth change is in paragraph I... One second,
4 I have to see if this is in the resolution or in the
5 conditions. Yes, in the resolution on page 5, there are
6 Roman numerals subparagraphs I through V, and in
7 subparagraph I, I would add Conditions 12 and 30; and in
8 subparagraph II I would add Conditions 10 through 13, and
9 23, 25, and 27; and then in the conditions I have one
10 change. Condition 23, line 2, delete "parking attendants"
11 for the reasons that we've discussed based on the code.
12

13 That's my motion. I'm looking for a second, and
14 then we can move on with our discussion. Commissioner
15 Stump.

16 COMMISSIONER STUMP: Second.

17 VICE CHAIR BARNETT: Thank you very much.
18 Discussion. Question for Staff?

19 COMMISSIONER SORDI: I think you may have just
20 modified Condition 23, but could you repeat that last part?
21 I want to make sure I understood the reference to Condition
22 23.

23 VICE CHAIR BARNETT: Oh, yes, it was just to take
24 out the requirement for parking attendants in the public
25

1 street, because the Town Code prohibits that unless
2 approved by the Parks and Public Works direction.

3 COMMISSIONER SORDI: I understand. Thanks.

4 VICE CHAIR BARNETT: Other discussions?
5 Commissioner Stump.

6 COMMISSIONER STUMP: Actually, is it okay if I
7 make another motion at this point?

8 VICE CHAIR BARNETT: You have that privilege.

9
10 COMMISSIONER STUMP: The 180 onsite parking
11 spaces provided by the mosque on Farley Road should be
12 noted in the CUP. It's currently not referenced, so I move
13 to note the number of onsite parking spaces by revising the
14 first sentence of Condition 26, Parking Lot Expansion. The
15 revision will read, "The Applicant shall provide at least
16 180 parking spaces." The second sentence begins with, "An
17 application proposing additional parking spaces shall be
18 submitted," and carries on to the remainder of the existing
19 first sentence. That is my motion. It would be to amend
20 your motion.

21 VICE CHAIR BARNETT: It's not a superseding
22 motion; it's an amendment to my motion.

23 COMMISSIONER STUMP: Thank you. I'm sorry about
24 that.
25

1 VICE CHAIR BARNETT: Very good. I'll second that
2 motion. Is there discussion? Commissioner Burnett.

3 COMMISSIONER BURNETT: Would this be a good time
4 my (inaudible) decision on (inaudible)? It's not a motion,
5 it's (inaudible).

6 VICE CHAIR BARNETT: We're having discussion on
7 my motion as amended by Commissioner Stump, and you're
8 welcome to discuss that.

9 ATTORNEY WHELAN: Or alternatively, if you have a
10 different motion. There can be up to three motions
11 presented at any one time.

12 COMMISSIONER BURNETT: Okay, I don't know if this
13 would go as a motion, but my motion is I cannot make the
14 findings to modify the existing CUP application based on
15 all the documents presented, testimonies, videos, as well
16 as my own observations. The request is to have for 335 days
17 a year a nightly religious observance time to 11:00
18 o'clock, as well as increasing the hours from 11:00pm to as
19 late as 12:00 midnight, or 12:30am, for 30 days during
20 Ramadan. Both requests include a half an hour to vacate the
21 parking lot.

22 The request, if approved, will directly impact
23 the physical and mental wellbeing of this small community.
24 The request for additional hours in itself is not a big
25

1 deal request overall, it's the impact of adding additional
2 time to vacate the onsite parking lot. Cars leaving later
3 at night, which upsets sleeping patterns, as well as
4 attendees walking past homes on a dark street with no
5 sidewalks to offsite parking has to all be taken into
6 consideration.

7 But the big concern is we're looking at 365 days
8 of late-night activity. There are different needs for
9 restorative sleep, which is essential for one's wellbeing
10 and longevity, documented in many studies published by the
11 NIH, the CDC, as well as many others.

12 The direct impact on the extended hours for 13
14 families in the immediate as well as surrounding
15 neighborhood will have a deleterious effect. Sleeping
16 patterns of the working families, you have small children,
17 you have new mothers, you have elderly, as well as those
18 recovering from an illness with disability concerns will be
19 strained. Each resident, be it a baby to an elderly
20 neighbor, have different needs when it comes to restorative
21 sleep. There will not be one night during the year that
22 this neighborhood can look forward to having what they have
23 with the present CUP and the limited hours.

24 In closing, I might add, the land was purchased
25 in 2018 by the West Valley Muslim Association, which is a

1 wonderful organization, with full knowledge of the CUP,
2 with the hours of operation not to exceed past 10:00pm. A
3 religious request from the mosque in 2020 to expand the
4 hours of operation for religious observance during the
5 month of Ramadan to 11:00pm resulted in the present CUP.

6 I might add, the description at that time in the
7 Planning Commission, from Kareem Sayed, the West Valley
8 Muslim Association outreach director, was to extend the
9 hours from 10:00pm to 11:00pm, expecting five to ten cars
10 to leave prior to 11:00 o'clock, and the remainder of the
11 year the operations would end at 10:00pm. This denial would
12 not impact the 2020 CUP that the West Valley Muslim
13 Association has been following since March 2020, which is
14 over six years.

16 This is based on all my readings, testimony, and
17 everything that has been brought forward by Staff, and that
18 would be my comment.

19 VICE CHAIR BARNETT: Okay, thank you for that
20 input. Commissioner Stump.

21 COMMISSIONER STUMP: Actually, I'm sorry, Chair,
22 I've got a few more amendments to offer.

23 VICE CHAIR BARNETT: Actually, I have one too.
24 Let's start with yours.
25

1 COMMISSIONER STUMP: Thanks. I'd like to start
2 with Condition 24, Drive Operations. In the last sentence
3 it reads, "The Applicant is authorized to remove the Right
4 Turn Only sign at the end of the egress driveway." I
5 propose that we change that to, "The Applicant is *required*
6 to remove the Right Turn Only sign and install a Left Turn
7 Only sign." That is Condition 24.

8 Condition 15, Lot Closure Rule. There was a
9 comment about people living onsite and guests, and the
10 parking requirements for them. I'm proposing that in
11 Condition 20, Noise Mitigation, at the end of the second of
12 two a. subparagraphs, where it states, "or use by the
13 leaders' quarters occupants," "or their guests" would be
14 added, and then we don't have to worry about that being in
15 Condition 15; it would be covered there.

17 Condition 18, Food Vendors, there was a
18 recommendation or suggestion to add at the end of the
19 sentence, "Food vendors associated with events shall be
20 located at least 20 feet from the property line," "abutting
21 residents" shall be added. So, the terminology "abutting
22 residents" would be added.

23 VICE CHAIR BARNETT: Is that the totality?
24

25 COMMISSIONER STUMP: That is all.

1 VICE CHAIR BARNETT: Okay, thank you. The Maker
2 of the Motion accepts those changes.

3 My additional change is on Condition 28,
4 Landscape Plantings, line 2 refers to perimeter fences. I
5 think that should be "adjacent to residences," which is the
6 same language that is in line 4. So, we'll need to have a
7 second on that. Commissioner Stump.

8 COMMISSIONER STUMP: Second.

9 VICE CHAIR BARNETT: So, we have the motion I
10 made subject to the two presentations by Commissioner Stump
11 with respect to changes that I have approved, and we also
12 have my one on Condition 28. Is there discussion at this
13 time on the modified motion? Seeing none, I'll call the
14 question and ask those in favor to raise their hand. And
15 those opposed. Thank you very much. It passes 4-1.

16 And because this is a special meeting, there is
17 not further business before the Commission, and I'll call
18 the meeting adjourned.

19 SEAN MULLIN: Through the Chair, if I may recite
20 the appeal rights.

21 CHAIR BURCH: Oh, please. I'm sorry.

22 SEAN MULLIN: Thank you. The decision of the
23 Planning Commission can be appealed to the Town Council by
24 any interested person as defined by Town Code Section
25

1 29.10.020 within ten days on forms available online with
2 fees paid. The appeal is due by 1:00pm on the final day if
3 it is a Friday.

4 VICE CHAIR BARNETT: Thank you for that.
5 Commissioner Stump.

6 COMMISSIONER STUMP: It may not be appropriate at
7 this point, but there were just a couple of comments that I
8 wanted to, again, follow-up with why some of these
9 conditions are important, particularly two of them.

10 We have a Condition 7, Compliance Review, and
11 that annual review has been set for three years following
12 approval, and it is a reasonable requirement based on the
13 location of the mosque.

14 It's uniquely located on a landlocked property in
15 a residential neighborhood sharing property lines on three
16 sides of the property with 13 neighbors. This neighborhood
17 lacks infrastructure, gutters, sidewalks, and uniform
18 street width to easily and safely support vehicle traffic
19 and flow, especially during Ramadan. But due to their daily
20 activity level at the mosque, the neighborhood is
21 experiencing six to ten times greater attendance and
22 vehicle traffic than previous residential institutions, and
23 their average weekly attendance is 3,500 with an estimated
24 1,160 vehicles, and during Ramadan, this increases to nine
25

1 to 16 times greater with average weekly attendance of
2 5,000, including an estimate of 1,860 vehicles.

3 This level of activity makes this the highest
4 volume religious institution in Los Gatos on most days of
5 the week and on a weekly basis, so an annual review over
6 the first three years of this CUP will allow the Town
7 Applicant and the neighbors the opportunity to monitor and
8 address concerns and impacts related to traffic, traffic
9 flow, pedestrian safety, noise, light intrusion, and so on.
10 It is hoped that this extended review period will allow for
11 reasonable adjustment and fine tuning that will be
12 beneficial for all concerned.
13

14 I do want to state Condition 12, General Hours,
15 section c, Maximum Capacity, and Condition 13, Seasonal
16 Late Hours, section a, Maximum Capacity, maximum capacities
17 for religious institutions have been routinely set in CUPs
18 with few exceptions. These maximum capacities are typically
19 based on parking spaces provided by the religious
20 institutions. Town Code Section 29.1.150 has set maximum
21 capacity from paragraph 26, Churches, "One parking space
22 for each four seats in each building will be used
23 separately or together with any other building for
24 worship." The math is straightforward. One parking space
25 equals four seats.

1 As a specific example, Venture Christian Church
2 has 703 parking spaces. Times four, their max capacity is
3 2,812. The application of the code for the mosque with 180
4 parking spaces times four is 720, so this is the same
5 methodology, the same Town Code, that is being followed.

6 Then, a couple of other quick points. During
7 Ramadan, obviously the maximum capacity is increased to
8 869, which is the maximum occupancy allowed by the Fire
9 Department. How has this been done in the past? It follows
10 the same methodology as congregation Shir Hadash. Their
11 standard services have a maximum capacity of 250 within
12 their parking requirements. In fact, their parking would
13 allow them 300 and up to 450, which happens to be the
14 maximum occupancy allowed by the Fire Department for
15 special holiday services.

16 Setting including maximum capacities in CUPs
17 based on parking spaces for religious institution has been
18 a common practice. Of the eight religious institutions'
19 CUPs reviewed by me, all eight had maximum capacities set,
20 and five of the eight had parking spaces included in the
21 CUPs. Those eight include Congregation Shir Hadash, St.
22 Mary's Catholic Church, Los Gatos United Methodist Church,
23 Faith Lutheran Church, St. Luke Episcopal, Calvary Church,
24 Legacy Community Church, and Venture Church.

1 Again, one last point. This Town Code section
2 that I referred to, it has served the community well over
3 the last 50-plus years. The code helps to ensure that
4 religious institutions contain activities to their
5 campuses, including enough parking to support their
6 congregants on the property. This helps to avoid the
7 inevitable parking impacts to area residents and businesses
8 that arise when congregants seek off-campus parking.
9

10 Thank you for that time, Chair.

11 VICE CHAIR BARNETT: Thank you very much for
12 those thoughtful comments. Any further discussion? We have
13 the appeal rights, so now I'll adjourn the meeting. Thank
14 you very much.

15 (END)
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